

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ALYSSE SCHOLTES and  
MISTEARYA MONARCH, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NICHOLE LOUISE ELDRED,

Respondent-Appellant,

and

CHRISTOPHER SCHOLTES and DEAN ALAN  
MONARCH,

Respondents.

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Before: Saad, P.J., and Hoekstra and Smolenski, JJ.

PER CURIAM.

Respondent-appellant Nichole Eldred appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (c)(i), (g), and (j). We affirm.

After careful examination of the record, we find clear and convincing evidence to satisfy the statutory grounds relied on by the trial court in terminating respondent-appellant's parental rights. See MCR 3.977(J); see also *In re Trejo Minors*, 462 Mich 341, 355; 612 NW2d 407 (2000) and *In re Rinesmith*, 144 Mich App 475, 483-484; 376 NW2d 139 (1985). The record reflects that the children were removed in February 2005, after Alysse disclosed sexual abuse by respondent Dean Monarch, who is the father of Alysse's sister, Mistearya, and was respondent-appellant's live-in partner at that time. Alysse revealed the sexual abuse to forensic interviewer Elizabeth Brown of the Child Advocacy Center on February 24, 2005. Earlier, she had made statements to her paternal grandmother and also apparently to respondent-appellant. There were also suggestions that respondent-appellant was present during some of the abuse. Following an evidentiary hearing under MCR 3.972(C)(2), the court found Alysse's hearsay statements

admissible. A jury trial was then held in June 2005, and the court took jurisdiction. An order of disposition was entered on July 8, 2005. Respondent-appellant was ordered to comply with the case service plan and parent-agency agreement, which included counseling, parenting classes, and participation in the Connections program for non-offending partners. Respondent-appellant was further required to benefit from these services.

Respondent-appellant continued to live with respondent Monarch, whom she referred to as her fiancé, until January 2006. In the meantime, Alysse had also revealed the abuse to psychologist Susan Carter and to her therapist, Angela Goodson. Alysse's accounts were consistent and believable. She regularly suffered somatic symptoms, e.g., an upset stomach and diarrhea, whenever she discussed the abuse by respondent Monarch. She would also build a cage or wall of stuffed animals, furniture, and toys, to keep out the "monsters" and "bad men." Through all of this time, Alysse never wavered in her accounts of the abuse, but respondent-appellant refused to believe her and steadfastly maintained the innocence of respondent Monarch. Respondent-appellant clung to her denial for many months of counseling, participation in Connections, and meetings with caseworkers and therapists. Her explanations for not believing her daughter and for supporting respondent Monarch were not reasonable. Professional opinion was unanimous that respondent-appellant would be unable to protect Alysse from abuse in the future.

The foregoing facts clearly and convincingly demonstrate that respondent-appellant failed to protect her daughter from abuse and would be unable to protect the children in the foreseeable future. MCL 712A.19b(3)(b)(ii). These facts equally demonstrate that respondent-appellant failed to provide proper care and custody and to improve to the point where the children would not be at risk in her care, MCL 712A.19b3(c)(i) and (g), and that there is a reasonable likelihood of harm should the children return to her home, MCL 712A.19b(3)(j). To her credit, respondent-appellant did complete parenting classes, attend counseling and the Connections program, obtain independent housing and employment, and visit the children regularly. However, a parent must benefit from services in order to be able to provide a safe and adequate home. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). In this case, respondent-appellant's benefits and improvements were in non-crucial areas. In the vitally important area of believing her daughter's accounts of sexual abuse by respondent Monarch, respondent-appellant did not benefit or improve. It took her over a year to acknowledge that "someone" may have sexually abused Alysse, and nearly a year to move away from respondent Monarch. Clearly, she should have recognized respondent Monarch's abuse of Alysse; the evidence was very clear and convincing that he was responsible for the damage to the child. But respondent-appellant would not even acknowledge the damage or empathize with her daughter's pain.

In finding no clear error by the trial court, we reject respondent-appellant's two main arguments on appeal. Her assertion that the trial court relied on the opinions of witnesses who saw her only briefly lacks merit. Indeed, the three caseworkers, counselor Paul Fatato, and Connections leader Laura Nardi all had substantial contact with respondent-appellant, and all questioned her ability to protect her children. Alysse's therapist, Angela Goodson, also spoke or met with respondent-appellant several times. Secondly, respondent-appellant argues that the evidence showed she had separated from respondent Monarch. However, while the record was not clear on their current relationship, there were suggestions that they at least maintained a

friendship (e.g., respondent-appellant testified that she was “trying not to talk to him as much”). Further, respondent-appellant testified several times, and it was up to the trier of fact to judge her credibility. See *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Testimony or statements that respondent Monarch was innocent of the sexual abuse failed to convince two referees, a jury, and the trial judge. We find no clear error in the trial court’s decision to terminate respondent’s rights.<sup>1</sup>

Affirmed.

/s/ Henry William Saad  
/s/ Joel P. Hoekstra  
/s/ Michael R. Smolenski

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<sup>1</sup> Although not raised on appeal, we have also considered the question of the best interests of the children and find no clear error in the trial court’s determination that termination of respondent-appellant’s parental rights was not clearly against the children’s best interests. MCL 712A.19b(5); *Trejo Minors*, *supra* at 352-354.